



DATE ISSUED: March 15, 2006 REPORT NO. CCDC-06-09

ATTENTION Honorable Chair and Members of the Redevelopment Agency
Docket of March 21, 2006

SUBJECT: Children's Museum - Proposed Third Implementation Agreement
(full block bounded by Union, Front, and Market Streets and Island
Avenue) - Marina Sub Area of the Centre City Redevelopment
Project

REFERENCE: Third Implementation Agreement to Disposition Agreement

REQUESTED ACTION:

Redevelopment Agency approval of the proposed Third Implementation Agreement to Disposition Agreement with the Children's Museum.

STAFF RECOMMENDATION:

That the Redevelopment Agency approve the proposed Third Implementation Agreement to Disposition Agreement with the Children's Museum.

SUMMARY:

MUSEUM TRANSACTION

In 1994 the Redevelopment Agency and Children's Museum entered into a Disposition Agreement which provided for the Museum's lease of, and option to purchase, the subject block owned by the Redevelopment Agency.

In 2001 the Agency and Museum entered into a First Implementation Agreement which preserved the Museum's option to acquire the block and which provided for the redevelopment of the block as a new Children's Museum of up to 58,000 SF and high rise residential condominiums with ground floor retail, and parking. The Museum would be the developer of its Museum Parcel and Pinnacle Development would be the developer of its Tower Parcel, with easements recorded for the allocation of parking in a subterranean garage. The Museum would purchase the block from the Agency and concurrently convey the Tower Parcel to Pinnacle. The First Implementation Agreement dealt with many complexities of the transaction, including a provision which prohibited the Museum's pledge of the Museum Parcel as security for any financing. The grant deed to be used to convey the Agency-owned block to the Museum restricted the use of the Museum Parcel to a Children's Museum of at least 40,000 SF. Further, the First Implementation Agreement provided the Agency with an Option to Reacquire the Museum Parcel for \$10 if the Museum were

unable to build its new facility, to move back to the new facility after vacating the block during construction or if the Museum were unable to continue operations on the block for any reason.

The Pinnacle transaction closed in 2003 and development of the Tower Parcel and the subterranean garage has been completed. Development of the Museum Parcel has been completed through the basement level.

In 2002 the Agency and Museum entered into a Second Implementation Agreement to permit the Museum's sale of 501(c)(3) bonds to finance the completion of the Museum Building. This Implementation Agreement permitted the Letter of Credit issuer (whose role in the bond transaction would be to guarantee annual debt service on the bonds) to record a deed of trust on the Museum Parcel as collateral security and provided for the Agency's subordination to this deed of trust of its Option to Reacquire and its "Museum only" grant deed restriction.

The Museum was required (by May 12, 2005) to submit to the Agency its evidence of 100% financing to complete the Museum Building using private donations and potentially bond proceeds. The Museum was not able to satisfy the financing requirement by the May date. An Ad Hoc Committee of the Centre City Development Corporation (CCDC) Board has provided a series of "grace periods" since May to allow the Museum sufficient time to determine if there were a means of financing the Museum Building.

PROPOSED THIRD IMPLEMENTATION AGREEMENT

The Museum's proposal is to finance the completion of the Museum Building (including interiors and exhibits, purchase of parking easements and off-site improvements) with private donations (\$7.5 million of new donations announced since May) and a conventional construction loan. The "Maximum Permitted Amount" of the loan would be \$10 million and such additional amount, if any, as may be reasonably approved by the Agency's Executive Director or designee to the extent necessary to fund the construction and development of the Museum Parcel pursuant to the Agreement, but not more than \$14.7 million. The Third Implementation Agreement would provide to the construction lender the same security (permitting a deed of trust on the Museum Parcel) and subordination protections (subordinating the Agency's Option to Reacquire and the "Museum only" grant deed restriction) provided to the letter of credit issuer for a bond sale. The lender, in turn, would provide to the Agency the right (but not the obligation) to cure a loan default by the Museum (within 90 days of a notice of default by the lender) and, if a default is not

cured, to pay-off the loan and reacquire the Museum Parcel prior to a foreclosure by the lender. If either the Agency or the lender were to acquire the Museum Parcel, either may use the Museum Parcel for any use permitted by the Redevelopment Plan.

Upon the Museum's pay-off of the loan and reconveyance of the deed of trust, the Agency's Option to Reacquire and the "Museum only" grant deed restriction would again be effective with respect to the Museum Parcel until May 11, 2032.

The Third Implementation Agreement provides for the Museum's submission of its financing to the Agency for approval, its execution and recordation of financing documents, and its commencement of construction to complete the Museum Building within 90 days of the Agency's execution of the Agreement. As part of the conditions precedent to the Agency's approval of the financing, the Museum shall present to the Agency for approval:

- sources and uses of funds for construction, FF&E and working capital;
- an operating budget through stabilization of Museum operations and a 5-year cash flow beyond stabilization demonstrating sufficient cash flow to cover all programming and expenses, including debt service; and
- a plan for continued strengthening of Museum governance and staffing.

ENVIRONMENTAL IMPACT

An Environmental Secondary Study was prepared for development of the subject block, including the Tower Parcel and the Museum Parcel, in 2002. The Study found the development to be consistent with governing land use plans and regulations, and therefore would not have any impacts not previously reviewed in environmental documents certified by the Agency. The building permit for the Museum Parcel is ready to be issued.

FISCAL CONSIDERATIONS:

None with this action.

CENTRE CITY DEVELOPMENT CORPORATION ACTION:

On February 22, 2006, the Centre City Development Corporation Board of Directors voted unanimously (LeSar, Maas, Johnson, McNeely and Rafflesberger) to recommend that the Redevelopment Agency approve the Third Implementation Agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 15, 2006, the Centre City Advisory Committee voted 22 in favor and 1 recused, and the Project Area Committee voted 19 in favor and 1 recused, to recommend approval of the proposed Third Implementation Agreement.

KEY STAKEHOLDERS:

ROLE/FIRM	CONTACT	OWNED BY
Developer San Diego Children's Museum	Jason Hughes, Board President Kay Wagner, Executive Director	Non-Profit Organization
Museum Architect Rob Quigley Architects	Rob Quigley	Rob Quigley (Privately Owned)
Park Landscape Architect Spurlock Poirier	Marty Poirier Neil Hadley	Marty Poirier Andy Spurlock (Privately Owned)

PROJECTED IMPACTS:

The Agency's approval of the Third Implementation Agreement would provide a viable financing mechanism for the completion of the new Children's Museum. The Agency's construction of the Children's Museum Park on the south side of Island Avenue, a requirement of the existing Disposition Agreement, can proceed with the completion of the Museum Building. The Museum is responsible for the maintenance of Children's Museum Park. These park improvements will complete the Martin Luther King, Jr. Promenade.